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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,223	08/02/2005	Keizo Yamaji	034185-066	9468
21839 7590 03/28/2008 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404				
EXAMINER FLYNN, KEVIN H				
ART UNIT 4143		PAPER NUMBER		
NOTIFICATION DATE 03/28/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/544,223

Applicant(s)

YAMAJI ET AL.

Examiner

KEVIN FLYNN

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 2 August 2005

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 2 August 2005.
2. Claims 1-9 are currently pending and have been examined.

Claim Objections

3. Claims 8 and 9 objected to because of the following informalities: claim 8 recites "offerring" but should likely read "offering"; and claim 9 recites "receiving" but should likely read "receiving". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The claims present numerous limitations for which there is insufficient antecedent basis in the claim. These limitations include "said client" (claim 1); "the same" (claim 1); "said information" (claim 1); "the design" (claim 4); "The wrapping/filling method" (claim 5); "the request condition" (claims 5, 6, 8, 9). Appropriate correction is required of these and all other antecedent basis issues.
7. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claim 7 is rejected under 35 U.S.C. 101 because a claim can not be directed to embrace or overlap two different statutory classes of invention set forth in 35 U.S.C. 101. 35 U.S.C. 101 is drafted so as to set forth the statutory classes of invention in the alternative only. See MPEP § 2173.05(p)(II).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 1-2, 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assemblies Unlimited (<http://web.archive.org/web/20020802182827/www.assemblies.com/packaging.html>,

accessed 2 August 2002) in view of Garwood (U.S. Pub. 2003/0170357 A1) in view of Schmitt (U.S. 5,983,220).

Claim 1:

Assemblies Unlimited, as shown, discloses the following limitation(s):

- *connecting a computer of said client having a request condition to a server computer [having a wrapping/filling condition database via the Internet], when a client requests wrapping/filling of a commodity (see at least Assemblies Unlimited, p. 1 "Assembly Requirements");*
- *obtaining wrapping/filling information of said client, which is appropriate for said request condition and said wrapping/filling condition (see at least Assemblies Unlimited, p. 1 "Assembly Requirements");*

Assemblies Unlimited does not specifically disclose the limitations of:

- *transmitting said wrapping/filling information from said server computer to said wrapping/filling device according to a request from said client computer;*
- *filling a commodity content according to said wrapping/filling information by said wrapping/filling device and wrapping the same by a wrapping vessel according to said information.*

However, Garwood, in at least ¶ 1396 discloses receiving orders from online buyers and automatically filling and wrapping the order. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of automatically fulfilling the order in order to increase efficiency and lower costs.

Assemblies Unlimited/Garwood does not specifically disclose the limitation(s) of:

- *a server computer having a wrapping/filling condition database via the Internet.*

However, Schmitt, in at least col. 1, lines 24-28 discloses online databases of services which users can purchase. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving and fulfilling a packaging order with the technique of using an online database to aid in the "analysis and evaluation of the similarity of items in the database with respect to multiple criteria" (Schmitt col. 2, lines 32-33).

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Claim 2:

Assemblies Unlimited/Garwood/Schmitt as shown above, discloses the limitations of claim 1. In addition, Assemblies Unlimited also discloses the following limitation(s):

- *wherein the wrapping vessel according to the wrapping/filling information is selected from paper vessel, bottle, can and plastic vessel (see at least Assemblies Unlimited, p. 1 "Bottle").*

Claim 5:

Assemblies Unlimited, as shown, discloses the following limitation(s):

- *the wrapping/filling information of a client, which is appropriate for the request condition and the wrapping/filling condition obtained by connecting the computer of the client having a request condition to the server computer [having a wrapping/filling condition database], when the client requests wrapping/filling of the commodity via the Internet (see at least Assemblies Unlimited, p. 1, "Assembly requirements"; "Submit Form").*

Assemblies Unlimited does not specifically disclose the limitations of:

- *the wrapping/filling information being transmitted from the server computer to the wrapping/filling device according to the request from the client computer.*

However, Garwood, in at least ¶ 1396 discloses receiving orders from online buyers and automatically filling and wrapping the order. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of automatically fulfilling the order in order to increase efficiency and lower costs.

Assemblies Unlimited/Garwood does not specifically disclose the limitation(s) of:

- *having a wrapping/filling condition database.*

However, Schmitt, in at least col. 1, lines 24-28 discloses online databases of services which users can purchase. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of using an online database to aid

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in the "analysis and evaluation of the similarity of items in the database with respect to multiple criteria" (Schmitt col. 2, lines 32-33).

Claim 6:

Assemblies Unlimited, as shown, discloses the following limitation(s):

- *the wrapping/filling information of a client, which is appropriate for a request condition and a wrapping/filling condition obtained by connecting the computer of the client having said request condition, who requests the wrapping/filling of the commodity, to the server computer [having said wrapping/filling condition database via the Internet], the wrapping/filling information being transmitted from said server computer to said wrapping/filling device according to the request from said client computer (see at least Assemblies Unlimited, p. 1, "Assembly requirements"; "Submit Form").*

Assemblies Unlimited does not specifically disclose the limitations of:

- *the wrapping/filling information being transmitted from said server computer to said wrapping/filling device according to the request from said client computer.*

However, Garwood, in at least ¶ 1396 discloses receiving orders from online buyers and automatically filling and wrapping the order. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of automatically fulfilling the order in order to increase efficiency and lower costs.

Assemblies Unlimited/Garwood does not specifically disclose the limitation(s) of:

- *having said wrapping/filling condition database via the Internet.*

However, Schmitt, in at least col. 1, lines 24-28 discloses online databases of services which users can purchase. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of using an online database to aid in the "analysis and evaluation of the similarity of items in the database with respect to multiple criteria" (Schmitt col. 2, lines 32-33).

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Claim 7:

Assemblies Unlimited/Garwood/Schmitt as shown above, discloses the limitations of claim 6. In addition, Garwood also discloses the following limitation(s):

- *a transmission part transmitting the wrapping/filling signal of said wrapping/filling device to said server computer, wherein said wrapping/filling signal is transmitted from said server computer to the computer of said client (see at least ¶ 0036 showing information about a particular package transmitted over the internet).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of transmitting information about the packaging order for "storing and communicating all the information" about the container to the customer.

Claim 8:

Assemblies Unlimited, as shown, discloses the following limitation(s):

- *offering a wrapping/filling condition via the Internet by a server computer [having a wrapping/filling condition database] when a client having a request condition requests wrapping/filling of the commodity (see at least Assemblies Unlimited, p. 1, "Assembly requirements"; "Submit Form").*

Assemblies Unlimited does not specifically disclose the limitations of:

- *transmitting wrapping/filling information of the client, which is appropriate for said request condition and said wrapping/filling condition, from said server computer to a wrapping/filling device according to the request from a client computer;*
- *filling a commodity content according to said wrapping/filling information by the wrapping/filling device and wrapping the same by a wrapping vessel according to said information.*

However, Garwood, in at least ¶ 1396 discloses receiving orders from online buyers and automatically filling and wrapping the order. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of automatically fulfilling the order in order to increase efficiency and lower costs.

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Assemblies Unlimited/Garwood does not specifically disclose the limitation(s) of:

- *having said wrapping/filling condition database via the Internet.*

However, Schmitt, in at least col. 1, lines 24-28 discloses online databases of services which users can purchase. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of using an online database to aid in the "analysis and evaluation of the similarity of items in the database with respect to multiple criteria" (Schmitt col. 2, lines 32-33).

Claim 9:

Assemblies Unlimited, as shown, discloses the following limitation(s):

- *the wrapping/filling information of a client, which is appropriate for the request condition and the wrapping/filling condition obtained by connecting the computer of the client having a request condition to the server computer [having a wrapping/filling condition database], when the client requests wrapping/filling of the commodity via the Internet, the wrapping/filling information being transmitted from the server computer to the wrapping/filling device according to the request from the client computer (see at least Assemblies Unlimited, p. 1, "Assembly requirements"; "Submit Form").*

Assemblies Unlimited does not specifically disclose the limitations of:

- *receiving a part of or all of result information obtained by filling a commodity content according to the following wrapping/filling information, and by wrapping the same by the wrapping vessel according to said information by the computer of the provider of said wrapping vessel and/or content through a server computer;*
- *analyzing said wrapping vessel and/or the supply trend of the content and the inventory control to perform the commodity management from said result information.*

However, Garwood, in at least ¶ 1559 discloses storing information on products, levels of inventory, and historical data, and predicting actual sales based on historical data. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order

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with the technique of analyzing the orders for a sales trend in order to obtain an "accurate prediction of actual sale" based on various times (Garwood ¶ 1559).

Assemblies Unlimited/Garwood does not specifically disclose the limitation(s) of:

- *having a wrapping/filling condition database.*

However, Schmitt, in at least col. 1, lines 24-28 discloses online databases of services which users can purchase. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of receiving a packaging order with the technique of using an online database to aid in the "analysis and evaluation of the similarity of items in the database with respect to multiple criteria" (Schmitt col. 2, lines 32-33).

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Assemblies Unlimited/Garwood/Schmitt in view of Official Notice.

Claim 3:

Assemblies Unlimited/Garwood/Schmitt as shown above, discloses the limitations of claim 1. With regard to the limitation:

- *wherein said commodity content according to the wrapping/filling information is selected from liquid foods, fluid foods and dry foods.*

Assemblies Unlimited discloses various items and types of packaging, and Komiya discloses a packaging method for meats, but neither specifically discloses liquid, fluid, or dry foods. However, the Examiner takes **Official Notice** that it is old and well known in the art that liquid, fluid, and dry foods are types of food that may be packaged. It would have been obvious to combine the method of packaging food with the technique using liquid, fluid or dry foods in order to provide more options for purchasing and ordering food items.

To adequately traverse the examiner's assertion of Official Notice, the Applicant must specifically point out the supposed errors in the Examiner's action, which would include stating why the noticed fact is not

considered to be common knowledge or well-known in the art. A general allegation that the claims define a patentable invention without any reference to the Examiner's assertion of Official Notice would be inadequate. Support for the Applicant's assertion of should be included.

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Assemblies Unlimited/Garwood/Schmitt in view of Aaron Thomas Online (<http://web.archive.org/web/20010207152444/www.packaging.com/index.htm>, accessed 7 February 2001).

Claim 4:

Assemblies Unlimited/Garwood/Schmitt, as shown above, discloses the limitations of claim 1. Assemblies Unlimited/Garwood/Schmitt does not disclose the limitation(s) of:

- *wherein in said wrapping/filling device, the design printed on the outward surface of said wrapping vessel is included in said wrapping/filling information.*

However, Aaron Thomas Online, in at least page 1, discloses "Labeling." It would have been obvious to one of ordinary skill in the art at the time of the invention to combine placing packaging orders with the technique of labeling the package in order to create package recognition and "win the customer during first contact" (Aaron Thomas Online, p. 3).

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Conclusion

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kevin H. Flynn** whose telephone number is **571.270.3108**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James A. Reagan** can be reached at **571.272.6710**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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/Kevin H. Flynn/
Examiner, Art Unit 4143
19 March 2008

/James A. Reagan/Supervisory Patent Examiner, Art Unit 4143